IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

WEDNESDAY, THE THIRTEENTH DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE G. BIKSHAPATHY

and
THE HON'BLE MR JUSTICE P.S.NARAYANA

WRIT APPEAL Nos. 822 of 2001, 889 of 2001, 229 of 2003 and WRIT PETITION NO : 22887 of 2003

-

-

WRIT APPEAL NO : 822 of 2001

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 12/03/2001 in WP NO : 26114 OF 2000 on the file of the High Court.)

Between:

The Secretary and Correspondent, St.Mark NTR College of Education, Prakash nagar Narsaraopet - 522 601
Guntur Dist

..... APPELLANT

AND

1.St.Mark NTR GMKN & MR.B.Ed.College, Narsaraopet, Guntur District, A College established and administered by St.Anthony Educational Society, rep. by its Correspondent G.V.Rami Reddy, S/o. Rami Reddy

2.Government of A.P Rep.by its Secretary to Government, Education (SE.TRG.I) Department Secretariat, Hyderabad.

3.Commissioner and Director of School Education, Andhra

Pradesh, Hyderabad.

4.Regional Director National Council for Teacher Education

125, Infantry Road, Opp:Medinova Diagnostic Centre,

Bangalore - 560 001

5.Nagarjuna University Rep.by its Registrar, Guntur.

6.The Convenor, EdCET 2000 Kakatiya University, Warangal.

.....RESPONDENT(S)

Counsel for the Appellant: MR.D.V.SITARAMAMURTHY

Counsel for the Respondents: MR.NUTY RAM MOHAN RAO

-

-

WRIT APPEAL NO : 889 of 2001

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 12/03/2001 in WP NO : 7789 OF 2000 on the file of the High Court.)

Between:

St.Anthony Educational Society rep. by its Secretary cum Correspondent, B.Koteswara Rao

..... APPELLANT

AND

1.Government of Andhra Pradesh rep.by its Secretary to

Government, Education (TRG-I) Department Secretariat,

Hyderabad

2.Commissioner and Director of School Education,
Govt. of Andhra Pradesh Hyderabad

.....RESPONDENT(S)

Counsel for the Appellant:MR.D.V.SITARAMAMURTHY

Counsel for the Respondent No.: GP FOR SERVICES I

WRIT APPEAL NO : 229 of 2003

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 12/03/2001 in WP NO : 7906 OF 1999 on the file of the High Court.)

Between:

St.Mark NTR GMKN & MR.B.Ed., College Narsaraopet, Guntur District, a College established and administered by St. Anthony Educational Society, rep. by its Correspondent - G.V.Rami Reddy S/o.Rami Reddy, Aged about 48 yrs, R/o.Narsaraopet, Guntur District.

..... APPELLANT

AND

1.Government of Andhra Pradesh rep.by its Secretary Education (Training-I) Department Secretariat Buildings, Hyderabad

2.The Commissioner and Director of School Education AP, Hyderabad

3.St.Anthony's Educational Society rep.by its Secretary B.Koteswarlu, S/o.Venkateswarlu

.....RESPONDENT(S)

Counsel for the Appellant: MR.NUTY RAM MOHAN RAO

Counsel for the Respondents: GP FOR SERVICES I

WRIT PETITION NO : 22887 of 2003

Between:

G.V. Rami Reddy S/o. Rami Reddy, aged 49 years, Correspondent, St. Mark NTR G.M.K.N. & M.R.B.Ed. College Narasaraopet, Guntur District.

..... PETITIONER

AND

1.The Commissioner & Director of School Education Government

of Andhra Pradesh at Nampally, Hyderabad

2.The Branch Manager, State Bank of India Narasaraopet

Branch, Guntur District.

3.Nagothu Chennaiah S/o. Jojaiah, aged about 45 years,
R/o Ravipadu Village Narasaraopet mandal, Guntur District

.....RESPONDENT(S)

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ of mandamus or any other appropriate writ or writs, order or direction, declaring the proceedings dated 23.7.2003 in RC.No.827/N2.2/2001 on the file of the first respondent, as illegal, arbitrary and without jurisdiction; award costs.

Counsel for the Petitioner: MR.N.SRIDHAR REDDY

Counsel for the Respondents: G.P. for School Education

MRS.P.BALA RANI

The Court made the following :

COMMON JUDGMENT:

(per G. Bikshapathy J)

1. All the Writ Petitions and Writ Appeals can be disposed of by a common Order as they are veering round for capturing the management of St. Anthony's Educational Society, Narsaraopet. There is any amount of litigation undertaken by individual parties in the guise of championing the cause of the Society more predominantly two

persons namely by name B. Koteshwar Rao and G.V. Rami Reddy and they have been putting relentless fighting to take over the management of the B.Ed. College. But, however, before proceeding to the actual matrix, the necessary facts relevant for appreciating and understanding the situation is necessary, which is traced out in the paras infra.

2. The St. Anthony's Educational Society, Narsaraopet came into existence in the year 1988. Initially, the president of the Society was one G. Jayanna Chowdary. It had submitted an application on 29.4.1988 to the State Government for permission to start B.Ed. college at Narsaraopet from the academic year 1988-89. However, the said request was rejected by the Government. Thereupon, a further request was made by the Society and that request to commence the institute with effect from 18.9.1990. As there was no response, the Society filed W.P.No. 14838 of 1989 seeking directions to dispose of the application by the Government for establishing the B.Ed. college. This Court by an Order dated: 26.10.1989 disposed of the Writ Petition with a direction to the State Government to take a decision in accordance with the law keeping in view the report submitted by the concerned authorities. However, the Government issued G.O.Rt.No. 636, dated: 17.4.1990 rejecting the permission. Thereafter, the Society filed a Contempt Case which was dismissed and again the Society filed W.P.No. 12558 of 1990 questioning the Order of rejection in G.O.Rt.No. 636. The said Writ Petition was allowed by this Court on 27.11.1990 and directions were issued to the State Government to grant permission to establish the B.Ed. college from the academic year 1990-91. However, the State Government filed Writ Appeal No.14 of 1991, and the Order was modified directing the Government to grant hearing to the Society and dispose of the application for the academic year 1991-92. Accordingly, for the second time, the Government issued G.O.Rt.No. 532 rejecting the same against which another Writ Petition was fled in W.P.No. 17315 of 1991. This Court set aside the Order of the Government in G.O.Rt.No. 532 by judgment dated: 24.4.1992 and directed the State Government to reconsider the matter. After giving the opportunity, again the State Government passed Orders in G.O.Rt.No. 1164, dated: 24.6.1992 rejecting the application. Thereupon, the Society

filed Writ Petition No. 8113 of 1992 which was allowed by this Court on 29.2.1992. Again the Government issued G.O.Rt.No. 198, dated: 8.2.1993. Questioning the same, the Society filed W.P.No. 3727 of 1993 and 3728 of 1993.Both the Writ Petitions were dismissed by the Division Bench on 18.2.1994. Thereupon, the Society filed SLP No. 8019-29 of 1994 before the Supreme Court. The Supreme Court by an Order dated: 2.8.1995 granted Leave and directed the State Government to consider application made by the Society for starting the Colleges of Educational in accordance with the provisions of Section 20 of the unamended A.P. Education Act, 1982 without going into policy decision on the basis of which the permission was granted earlier and refused and directed consideration of the application in terms of the Orders passed in earlier S.L.Ps. Direction was also given for consideration of the application on the basis of the conditions as obtained on 24.9.1988 and to pass reasoned Order on or before 1.12.1995 after hearing the Society. Accordingly, the State Government issued G.O.Ms.No. 434, dated: 31.11.1995 rejecting the application of the Society on the ground that there was no need for establishment of College. Thereafter, the Society filed Contempt Case No. 194, 195 of 1996 before the Supreme Court. But, however, the State Government issued G.O.Ms.No. 240, dated: 8.11.1996 permitting the Society to establish the College of education subject to certain conditions. Thus, the application filed in 1988 was considered favourably and Orders were passed in 1998.

3. Then coming to the question of management of the Society G. Jayanna Chowdary was the President, who has been continuing the litigation right from the beginning till November, 1995, when the Government issued G.O.Ms.No. 434 rejecting the application of the Society. Subsequently, it appears that the litigation was continued by B.Koteswar Rao, who was alleged to have been representing the Appellant-Society. He started St. Mark NTR College of Education, Prakash Nagar, Narsaraopet for the academic year 1996-97. On the other side, one G.V. Rami Reddy along with some others expelled candidates established a college by name St. Mark NTR GMKN & MR College of Education. Koteswar Rao filed O.S.NO. 229 of 1996 seeking permanent injunction, in which G.V. Rami Reddy and his group was

arrayed as defendants. However, Mr. Rami Reddy and Mr. B. Koteswar Rao filed independent W.P.Nos. 19464, 14687, 21167 and 13450 of 1997 seeking affiliation and directions to Nagarjuna University to grant permanent affiliation to the respective colleges. All the Writ Petitions were disposed of by a common Order dated: 29.9.1997 directing the Director of School Education to appoint a Special Officer to take over the institution for the purpose of administration and management of B.Ed. College. At the same time, the District Munsif, Narsaraopet was directed to dispose of the O.S.NO. 229 of 1996 expeditiously and it was also made clear that as per the decision of the Civil Court, the College has to be transferred to the concerned group for management and administration. Against the said Order, the W.A.NO. 1172, 1250, 1314 and 1315 of 1997 were filed. The Writ Appeals were disposed of modifying the Order of the learned Single Judge to the extent of appointment of Special Officer and confirmed the remaining part of the relief. The Division Bench directed Rami Reddy to administer the Society pending result of the suit. However, the District Munsif dismissed the suit by a judgment and decree dated: 23.5.1998 recording a finding of the Managing Committee of the Society was the only Committee as existed as on 8.11.1995 and at the relevant time B. Koteswar Rao was the Secretary of the Society and the resolution removing the then President G. Jayanna Chowdary held to be not valid. Against the said judgment, A.S.No. 44 of 1998 was filed and Rami Reddy group also filed Cross appeals. The appellate Court dismissed the appeal on 2.4.1999 and found that the Appellant Koteswar Rao was properly elected as Secretary of the Society on 8.11.1995. However, the proceedings subsequent to 24.11.1995 was held to be illegal and void. By virtue of this, Rami Reddy group found to be no more connected with the management. While so, G.O.Ms.No. 356, dated: 26.9.1998 was issued by the Government withdrawing the permission granted to St. Mark NTR GMKN & MR College of Education represented by G.V. Rami Reddy after issuing show cause notice and the same was questioned by Rami Reddy in W.P.No. 7906 of 1999. Mr. Koteswar Rao also made a representation to the State Government stating all the facts. However, after inspection and verification of the record, the authorities recommended to the Government to grant permission to Koteswar Rao to run B.Ed. College under the

supervision of the Society. Koteswar Rao filed W.P.No. 7789 of 2000 for direction to the Government to dispose of the representation dated: 17.11.1998 and 15.3.2000 and also grant benefits under G.O.Ms.No. 240, dated: 8.11.1996. Accordingly, the State Government has issued a G.O.Ms.No. 171, dated: 16.12.2000 permitting St. Mark NTR College of Education, Prakash Nagar, Narsaraopet represented by Koteswar Rao to run St. Mark NTR College of Education, Prakash Nagar, Narsaraopet from the academic year 2000-01 subject to outcome of W.P.No. 7789 of 2000. Questioning the validity of the said G.O.Ms.No. 171, G.V. Rami Reddy of St. Mark NTR GMKN & MR College of Education filed W.P.No. 26114 of 2000. Both the Writ Petitions came to be considered by the learned Single Judge namely W.P.No. 7906 of 1999 filed by Rami Reddy questioning the G.O.Ms.No. 356, dated: 26.9.1998 withdrawing the permission and also W.P.No. 26114 of 2000 questioning the G.O.Ms.No. 171 permission granted to Koteswar Rao group. The learned Single Judge by an Order dated: 12.3.2001 allowed the W.P.No. 26114 of 2000 and dismissed the W.P.No. 7789 of 2000. Aggrieved by the said Order, Appellant Mr. Koteswar Rao filed W.A.NO. 822 of 2001 against the Orders passed in W.P.No. 26114 of 2000, W.A.NO. 899 of 2001 against the Orders passed in W.P.No. 7789 of 2000. Thus, the state of affairs of the Society are reflected in the aforesaid paragraphs.

4. Yet, again W.P.No. 22887 of 2003 was filed by G.V. Rami Reddy challenging the Orders of Commissioner and Director of School Education, dated: 23.7.2003in Rc.No. 827/N2-2/2001 releasing corpus fund in favour of 3rd respondent. .

5. Before going into the relief in the Writ Petition, it is necessary that the Writ Appeal should be disposed of which would govern the relief in Writ Petition.

6. The learned counsel for the appellant Mr. D.V. Sitarama Murthy in W.A.Nos. 822/01 and 889/01 vehemently submits that the respondent Rami Reddy has been making unsuccessful attempts at every point of time. Even though he was found to

be no way connected with the affairs of the Society, he was neither elected President nor Office bearer of the Society, but, yet he started litigation at various levels on the basis of the interim Orders passed by this Court from time to time. But, even, otherwise also he submits that he has been conducting the affairs of the college in most irresponsible manner completely violating the directions of the Government issued from time to time with regard to the admission of B.Ed. students. He admitted the students without there being any valid permission and thereupon filed the Writ Petitions seeking to declare the illegal activities as contrary to law. This was considered by the learned Single Judge and the conduct of Rami Reddy was seriously commented upon. Thus, considering the nature of the litigation commenced by him, the learned Judge found that the withdrawal of permission granted to St. Mark NTR GMKN & MR College of Education college was illegal and accordingly dismissed the Writ Petition.

7. Coming to the question of challenge made to G.O.Ms.No. 171, the learned counsel Mr. Sita Ram Murthy submits that the reasons assigned by the learned Single Judge are wholly illegal and untenable. He submits that the Koteswar Rao was found to be duly elected Secretary of the Society and even the appellate Court also observed this in Appeal No. 44 of 1998, but with regard to Rami Reddy, the Civil Court found that he was not at all connected with the Society. But, this aspect was not considered by the learned Single Judge. He submits that the very object of the Society is to establish the B.Ed. college and serve the needs of the people, more especially Christian minority students, who are migrating to other places to pursue higher education. Therefore, the learned counsel would submit that the tribunal ought not to have set aside the G.O.Ms.No. 171. He further submits that under the provisions of the A.P. Education Act that consequent on the National Council for Teachers Education Act (for brief “N.C.T.E. Act”), the State Government has no role to play and that no objection is also not required in view of the judgment of the Supreme Court. Under those circumstances, setting aside the G.O.Ms.No. 171 on the ground that the no objection certificate was issued by the Government is wholly unsustainable and therefore, the Order in Writ Petition setting aside the G.O.Ms.No.

171 is liable to be set aside and Writ Appeal has to be allowed.

8. On the other hand, the learned counsel Mr. Nooty Ram Mohan Rao, appearing for the College represented by Rami Reddy submits that the Order passed by the learned Single Judge is not sustainable in asmuch as the college was run as per the conditions stipulated by the Government and therefore, the Order is liable to be set aside. With regard to the successful challenge made to G.O.Ms.No. 171, the learned counsel would submit that the Order of the learned Single Judge observing that no objection certificate was not obtained and therefore, granting permission is contrary to the Education Act cannot be said to be illegal and contrary to law and therefore, the learned counsel would submit that the Writ Appeal No. 229 of 2003 filed by the college representing by Rami Reddy is liable to be allowed and the Writ Appeal No. 822 of 2001 and 889 of 2001 filed by Koteswar Rao are liable to be dismissed.

9. The learned Government Pleader submits that in view of the quarrel between the parties, the learned Single Judge has come to a correct conclusion that both the persons should not be allowed to run the Colleges and therefore, he submits that there are no merits in the writ appeals and they are liable to be dismissed.

10. With regard to the challenge made to G.O.Ms.No. 356, dated: 26.9.1998 wherein permission accorded to St. Mark NTR GMKN & MR College of Education was withdrawn, submissions made before the learned Single Judge were again pressed into service. We need not refer to them in detail. The learned Single Judge observing that the show cause notice dated: 31.3.1998 as well as in the show cause notice dated: 15.6.1996, there was no proposal to withdraw the permission granted to the Society observed that the show cause notice has to be construed only as a show cause notice for withdrawing the permission already granted in G.O.Ms.No. 240. In fact, the Appellant Rami Reddy was aware of the situation and he submitted the reply to the show cause notice dated: 5.6.1998 on the premise that the permission was being sought to be intended to be withdrawn in pursuance of the

said show cause notice and thus the learned Single Judge rejected the contention of the Appellant that proper notice was not given before passing the Order of withdrawl. We do not find any flaw in the said finding of the learned Single Judge. The learned Single Judge further held that when the power to grant permission vests with the Government equally power to withdraw the permission is inherent in such authority. More over, the permission was granted to the Appellant Rami Reddy to establish college subject to fulfilment of the conditions in the said G.O.Ms.No. 240. One of the important condition which is required to be followed by the management of the institution was that they shall abide by the conditions imposed by the University from time to time with regard to the admission of the students into the institution. The institution committed any number of illegalities even the admissions were made without permission from the authorities or without allotment is made by the authorised source having admitted the Appellants tried to legalise its acts by approaching the Court at various stages. The contention that the State Government usurped the jurisdiction under the N.C.T.E. Act, 1993 is also not sustainable and what was granted by the State Government was permission and not the recognition and that to permission was granted by the N.C.T.E. only for a period of one academic year that is to say i.e. 1996-97 and for 1998-99 it was also found that the Appellant admitted the students into college for the academic year 1997-98 without allotment made by the Convenor, EDCET, 1997 while the admission of students to private institutions shall be on the basis of their ranking in the common entrance test. The Convenor is required to allot students according to ranking, but the Appellant-institution has given a go bye to the procedure on the premise that it is a minority institution and that it is entitled to admit the minority students to the college irrespective of the merit. On the other hand, when candidates were allotted by the Convenor for the academic year 1997-98, it refused to admit them. The same irregularity was also committed by the Appellant-institution in the admissions for the academic year 1996-97. Therefore, the learned Single Judge after finding that the Appellant-college run by Rami Reddy has committed irregularity right from the inception held that withdrawing the permission was quite legal and valid. The following is the extract of the judgment:

"It is thus clear that the petitioner-college admitted the students into the college by its own even though it had no affiliation from the University. The petitioner college treated itself as a minority institution and on that basis admitted the so-called minority students into the institution directly without obtaining any minority status certificate. The conduct of the petitioner speaks for itself. Such conduct disentitles it from granting any relief.

The decision of the Government in withdrawing the permission/recognition perfectly is in accordance with law. It does not suffer from any legal infirmity. Public interest is paramount consideration. The State Government rightly acted in the public interest. It is well settled that the Court discharging its functions under Article 226 of the Constitution of India is also a court of equity. Writs in the nature of Mandamus and Certiorari are issued to uphold the rule of law and prevent the miscarriage of justice. No person invoking the extraordinary jurisdiction of this Court under Article 226 of the Constitution of India shall be permitted to take advantage of the strategies and devices for getting relief from this Court."

11. The learned counsel for the appellant, however, tried to convince this Court that the findings recorded are not sustainable in asmuch as, the learned Single Judge has proceeded with the predetermined view. We are unable to subscribe this contention. The narrations of the events borne out by the records speak volumes. Thus, we do not find any illegality in the Order passed by the learned Single Judge upholding the validity of G.O.Ms.No. 356. Therefore, we find no merits in the Writ Appeal and accordingly the Writ Appeal No. 229 of 2003 filed by G.V. Rami Reddy is dismissed.

12. Coming to the W.A.NO. 822 of 2001 filed against the Order passed in W.P.No. 26114 of 2000, as already noted, that the said Writ Appeal has been filed against the Orders of the learned Single Judge setting aside the G.O.Ms.No. 171, dated: 16.12.2002 in which the permission was granted to St. Mark NTR College of Education, Prakash Nagar, Narsaraopet represented by B.Koteswar Rao to run B.Ed. for the academic year 2000-2001 subject to certain conditions. This Court while issuing notice before admission in W.P.No. 7789 of 2000, merely directed the

Government to pass the Orders on the application filed by the petitioner, but there was no positive directions to grant permission. The learned Single Judge observed that the Government acted as if it was bound to grant the permission to run B.Ed. college either by the group of G.V. Rami Reddy or B.Koteswar Rao. That finding has become purely academic in view of the fact that academic year was already over and it has to be considered whether the group lead by B.Koteswar Rao is entitled for any relief. The learned Single Judge while referring to G.O.Ms.No. 171, observed that the Government had passed the Orders on the premise that this Court has directed. But, in fact if G.O.Ms.No. 171 is read in its entirety, it is noticed that the Government has considered the matter on thebasis of rival clams and preferred to grant permission to B.Koteswar Rao rather than G.V. Rami Reddy.

13. Under Chapter-IV of National Council for Teachers Education Act, the method and manner of recognising the teacher education is stipulated. Section 14 and 15 are relevant which are extracted below:

> **"SECTION 14 Recognition of institutions offering course or training in teacher education**
>
> **(1) Every institution offering or intending to offer a course or training in teacher education on or after the appointed day may, for grant of recognition under this Act, make art application to the Regional Committee concerned in such form and in such manner as may be determined by regulations; Provided that an institution offering a course or training in teacher education immediately before the appointed day, shall be entitled to continue such course or training for a period of six months, if it has made an application for recognition within the said period and until the disposal of the application by the Regional Committee.**
>
> **(2) The fee to be paid along with the application under sub-section (1) shall be such as may be prescribed.**
>
> **(3) On receipt of an application by the Regional Committee from any institution under sub- section (1), and after obtaining from the institution concerned such other particulars as it may consider**

necessary, it shall,-

(a) if it is satisfied that such institution has adequate financial resources, accommodation, library, qualified staff, laboratory and that it fulfils such other conditions required for proper functioning of the institution for a course or training in teacher education, as may be determined by regulations, pass an order granting recognition to such institution, subject to such conditions as may be determined by regulations; or

(b) if it is of the opinion that such institution does not fulfil the requirements laid down in sub-clause (a), pass an order refusing recognition to such institution for reasons to be recorded in writing; Provider that before passing an order under sub-clause (b), the Regional Committee shall provide a reasonable opportunity to the concerned institution for making a written representation.

(4) Every order granting or refusing recognition to an institution for a course or training in teacher education under sub-section (3) shall be published in the Official Gazette and communicated in writing for appropriate action to such institution and to the concerned examining body, the local authority or the State Government and the Central Government.

(5) Every institution, in respect of which recognition has been refused shall discontinue the course or training in teacher education from the end of the academic session next following the date of receipt of the order refusing recognition passed under clause (b) of sub-section (3).

(6) Every examining body shall, on receipt of the order under sub-section (4),-

(a) grant affiliation to the institution, where recognition has been granted

or

(b) cancel the affiliation of the institution, where recognition has been refused.

SECTION 15 Permission for a new course or training by recognised institution -

(1) Where any recognised institution intends to start any new course or training in teacher education, it may make an application to seek permission therefor to the Regional Committee concerned n such form and in such manner as may be determined by regulations.

(2) The fees to be paid along with the application under sub-section (1) shall be such as may be prescribed.

(3) On receipt of an application from an institution under sub-section (1), and after obtaining from the recognised institution such other particulars as may be considered necessary, the Regional Committee shall,-

(a) if it is satisfied that such recognised institution has adequate financial resources, accommodation, library, qualified staff, laboratory and that it fulfils such other conditions required for proper conduct of the new course or training in teacher education, as may be determined by regulations, pass an order granting permission, subject to such conditions as may be determined by regulation; or

(b) if it is of the opinion that such institution does not fulfil the requirements laid down in sub-clause (a), pass an order refusing permission to such institution, for reasons to be recorded in writing: Provided that before passing an order refusing permission under sub-clause (b), the Regional Committee shall provide a reasonable opportunity to the institution concerned for making a written representation.

(4) Every order granting or refusing permission to a recognised institution for a new course or training in teacher education under sub-section (3), shall be published in the Official Gazette and communicated in writing for appropriate action to such recognised institution and to the concerned examining body, the local authority the State Government and the Central Government."

14. Under G.O.Ms.No. 171, dated: 16.12.2000, the Government in pursuance of the interim Orders passed by this Court on 24.11.2000 in W.P.No. 7789 of 2000, considered the matter afresh and felt it was appropriate to permit the Society represented by Koteswar Rao to run B.Ed. college subject to outcome of the Orders of the High Court. For proper appreciation of the case, the Order is extracted below:

"**GOVERNMENT OF ANDHRA PRADESH**

ABSTRACT

Private Colleges of Education – St. Anthony Educational Society, Narsaraopet, Guntur District – Permission to St. Mark NTR College of Education, Narsaraopet, Guntur to run the B.Ed. Course – Orders – issued.

....

EDUCATION (SE.TRG.I) DEPARTMENT

G.O.Ms.No. 171 Date: 16th December, 2000

Read the following:

1. **G.O.Ms.No. 240, Education (Trg.I) Department, dated: 08-11-1996**
2. **G.O.Ms.No. 356 Education (Trg.I) Department, dated: 26.09.1998.**
3. **Representation from the Secretary & Correspondent, St. Anthony Educational Society, Narsaraopet, Guntur District, dated: 15.03-2000.**
4. **High Court interim direction dated: 28-04-2000, in W.P.No. 7789/2000.**

....

ORDER:-

In the reference 1st read above Orders were issued permitting to St. Anthony Educational Society, Narsaraopet, Guntur District to establish a College of Education at Narsaraopet, Guntur District from the academic year 1996-97 with an intake of 160 seats subject to fulfilment of conditions specified therein.

(2) Sri G.V. Rami Reddy and Sri B. Koteshwara Rao started two different Colleges and there has been a protracted civil litigation as to who is the Correspondent authorised to run the B.Ed. College. The additional Senior Civil Judge, Narsaraopet in his judgment dated: 2.4.1999 has observed that the claims of both the groups led by Sri B. Koteshwara Rao and Sri G.V. Rami Reddy are not in accordance with the bye-laws of the Society and that both the groups have fabricated their own minutes of their respective elections to the Society's Executive Body Government felt that the right to manage the Society being Civil right that has to be adjudicated and decided by competent Civil Court, any finality in the determination of the rights of the authorities in this regard can be achieved only by an appropriate

declaration of the status and rights by competent Civil Court.

(3) It has been brought to the notice of the Government that the management of St. Mark NTR GMKN and MR College of Education, Narsaraopet has refused to admit the students allotted by the Convenor EdCET'97 in B.Ed. Course for the academic year 1997-98. It has also been brought to the notice of the Government that the application for grant of Minority Status Certificate for the year 1996-97 and 1997-98 was rejected by the Director of School Education. The matter was examined in consultation with the Director of School Education and the observations of the Lok Ayukta Orders were issued withdrawing the permission of St. Mark NTR GMKN and MR College of Education, Narsaraopet, Guntur District with immediate effect vide reference 2nd read above.

4. In the reference 3rd read above, the Secretary and Correspondent, St. Anthony's Educational Society, Prakashnagar, Narsaraopet, Guntur District has submitted a representation before Minister (SE) stating that he has made an application to Nagarjuna University for according permission to start a College of Education and that the inspection Committee have verified the Society records and submitted their report and that a group of persons headed by Sri G.V. Rami Reddy have started a rival B.Ed. College at Narsaraopet, Guntur District and that was subject matter in Civil litigation in O.S.NO. 229/96 on the file fo the Principal Junior Civil Judge, Narsaraopet. The Principal Junior Civil Judge, Narsaraopet by judgment dated: 23.5.1993 restrained to grant injunction against the respondents therein. Aggrieve by the same n appeal was filed before the Court of the Senior Civil Judge, Narsaraopet in A.S.No. 44/98, the learned Junior Civil Judge, Narsaraopet observed that even there is no evidence to establish that the respondents for elected as office bearers fo his Society. He has also requested that since the first appeal No. 44/98 on the file of the Additional Senior Civil Judge, Narsaraopet filed against O.S.NO. 229/96 was disposed off by stating that the group led by Sri G.V. Rami Reddy has no concern with the Society in question and that Sri B.Koteswara Rao elected to the Society in the year 1995 was held valid and permission should be granted to St. Anthony Educational Society as per the judgment of the Hon'ble Court in W.P.No. 13450/97 and batch to run the College of B.Ed. at Narsaraopet.

5. The Secretary and Correspondent, St. Anthony Educational Society represented by Sri B. Koteshwara Rao has also filed W.P.No. 7789 of 2000 in the High Court. The Hon'ble High Court has issued the following interim Order on 28.04.2000:

> **"The respondents are directed to show cause on or before 14.6.2000 to which date the case stands posted as to why in the circumstances set out in the petition and the affidavit filed therewith this Writ Petition should not be admitted. The counter affidavit if any be filed before the above said date after due service on the other side. And it is further ordered that in the meanwhile respondents herein be and hereby are directed to pass Orders on the application filed by the petitioner on 15.3.2000 pending further Orders on this Petition."**

6. In view of the direction of the High Court dated: 28.4.2000 in W.P.No. 7789/2000 the application filed by Sri B. Koteshwara Rao on 15.3.2000 has been examined carefully and after going through the material on record and as per the direction of the High Court in W.P.No. 7789/2000 Government felt that it is appropriate to permit St. Anthony Educational Society, Narsaraopet, Guntur District represented by Sri B. Koteshwara Rao to run the B.Ed. College subject to out come of the further Orders of the High Court.

7 . Accordingly, Government hereby Order and permit St. Anthony Educational Society, Narsaraopet, Guntur District represented by Sri B. Koteshwara Rao, St. Mark NTR GMKN and MR College of Education, Prakash Nagar, Narsaraopet, Guntur District to run the B.Ed. College from the academic year 2000-2001 subject to out come fo the further Orders of the High Court.

8. The management shall fulfil the following conditions before starting the College:

i. **The requirement of the land will be 2 hectares and shall be registered in the name of the applicant's Society as owner.**

ii. **The Corpus fund of Rs. 5.00 lakhs is to be provided in addition to the other guidelines under the NCTE. The corpus fund shall be deposited in National Savings Certificate/Fixed deposits in the Post Office/Any Nationalised Bank in the Joint Account**

of Society and D.E.O.

iii. **The permission shall be rejected where the management is involved in criminal or other offences.**

iv. **The management shall procure equipments like Library, Laboratory and A.V. equipment and adequate furniture.**

v. **The State Level Committee shall cause at any time to inspect the college to assess the capacity of the management.**

vi. **The allotment of the candidates shall be made by the Convenor, EdCET year after year.**

vii. **The number of seats in a College of Education shall be limited to 160 (one hundred and sixty only).**

viii. **The managements shall obtain affiliation from the University concerned for starting the Course.**

ix) The management shall obtain recognition from the Regional Director, NCTE, Bangalore."

Therefore, from the reading of the aforesaid Orders, the Government have referred to various civil matters pending before the Court and came to the conclusion that the management of the Society represented by Koteswar Rao could be granted permission to run B.Ed. college. However, these directions were subject to the result in O.S.NO. 229 of 1996.The suit filed by Koteswar Rao in O.S.NO. 229 of 1996 was dismissed and the appeal was filed and the appeal was also dismissed. It is to be noted that the suit was filed for injunction restraining the group lead by Rami Reddy from interfering with the management of the college. The trial Court found that Mr. Koteswar Rao who was the plaintiff was not able to establish that he was duly elected as President of the Society. However, the trial Court observed in para 43 as follows:

"POINT No.11: The learned counsel appearing for the defendant

contends that the scope of the Court is restricted to the resolution 25.4.1996 and the Court cannot investigate and say that plaintiff is the president and D.W.1 is president and the Court cannot validate Ex.B-31 and B.32 resolution. The learned counsel appearing for the plaintiff contended that as there were rival claims with regard to the possession of plaintiff Society both have to be decided and the Court canot say that as the plaintiff has failed to prove the case the defendant is the president. The Court must see the validity of Ex.B-31 and 32 as the plaintiff is claiming the possession of the plaintiff Society. It is the duty of the Court to see incidentally whether plaintiff is having title over the property and also for just disposal of the case it is necessary to see what the contention of the defendant and what is his right over the Society. As schedule the contention of defendant is un-sustainable. As per the evidence of D.W.1 till 9-9-96 Jayanna worked as president of the Society after his demise he conducted a meeting as vice-President and subsequently under Ex.B-32 he was elected as president of the plaintiff Society. But, how D.W.1 was elected as Vice-President of plaintiff Society was not pleaded by the defendant and no evidence was adduced to show that as vice-President he conducted meeting on 9-9-96. The minutes of 9-9-96 were communicated to the registrar of societies. That correspond to page 131 in Ex.X3. The perusal of X-3 and Ex.B-31 and Ex.X3 are not tallying. As per Ex.B-31 there were 19 members present and a resolution was passed. But, the perusal of X3 shows that 6 members present and signed on it. When D.W.1 was confronted the same, he deposed that the signatures in Ex.B-31 were taken subsequently. He clearly stated that the persons who signed on Ex.B-31 were not present on that day. It clearly shows that in Ex.B-31 the signature were taken subsequently and in Ex.B-32 also there appears that 16 members were signed in except D.W.1 and D.W.2 no other members was examined to prove the validity of the same. As per Ex.B-32 it is a general body meeting it is elected executive body members. That itself is against the general principle that means the general body has no authority to elect office bearers of the executive body. Ex.B-32 is also against the principles of general procedure. Basing on that D.W.1 cannot say that he was elected as president of the Society." (emphasis added)

The trial Court further observed that Rami Reddy has no connection with the affairs of the Society. Against the judgment and decree of the lower Court, appeal was carried by Koteswar Rao, so also cross appeals by Rami Reddy. Appellate Court while affirming the findings of the lower Court, observed thus:

> **"Therefore, all the minutes that were sent to the Registrar Office while Jayanna Chowdary was actively associated with the**

Society Management are found in Ex.A-2 minutes book. Thus, fromthis we can draw an inference that upto controversial removal of Jayanna Chowdary as president Ex.A-2 contains the genuine minutes of resolutions passed by the Executive Body or General Body of the Society. Some of the copies of the minutes or resolution of the plaintiff Society, were sent to the Registrar under the signatures of late Jayanna Chowdary and they were sent before sprouting of the present dispute. Therefore, I have no hesitation to come to conclusion that upto the minutes of resolution dated: 8.11.1995 the resolutions in Ex.A-2 are genuine and authentic.

15. A copy of Ex.A-14 was sent to the Registrar on 24.11.1995 i.e. many months before the death of Jayanna Chowdary. At that time both parties did not even contemplate any future disputes over the management of the plaintiff's Society. Under Ex.A-14 resolution the executive Body elected Bolla Koteswara Rao (P.W.1) as Secretary of the Society and one Gali Kiran Kumar son of late Gali Jayanna Chowdary as Executive committree mber. Apart from Gali Jayanna Chowdary, D.W.1 also said to have signed on that resolution. Since the date of Ex.A-14, P.W.1 has been acting as Secretary of the plaintiff's Society. He also filed contempt petition before the sc representing the plaintiff's Society as correspndent. D.W.2 also admitted that P.W.1 was acting as secretary of the Society. From these facts, we can also draw an inference that Bolla Koteswara Rao (P.W.1) was elected as secretary of the plaintiff's Society under Ex.A-14 resolution and Ex.A-2 book contains the genuine minutes of the plaintiff's Society upto Ex.A-14.

Xxx xxx xxx

35. In the instant case the main dispute is with regard to the Management of the Society by the rival groups. Simply because the groups who filed the suit to establish their right over the Management it does not mean that other group is entitled to manage the Society automatically. Therefore, in the peculiar circumstances of this case, it is incumbent on the Court incidentally to examine whether the defendants are justified in interfering with the Management of the plaintiff's Society as the defendants are claiming that they were elected office bearers of the plaintiff's Society. Therefore, the lower Court fully justified in examining the claim of the D.W.1 that he is duly elected president of the Society."

Thus from the findings of the Courts below, it is seen that the group lead by G.V. Rami Reddy has no concern at all. On the other hand, a clear view was expressed by the trial Court as well as the appellate court that Mr. Koteswar Rao who was examined as P.W.1 was validly elected as Secretary of the Society under Ex.A-14 resolution and to this extent Ex.A-2 minutes book contains the resolution. It is only thereafter, the resolutions were found to be not genuine. Therefore, the Courts below concurrently found that prior to the alleged general body held Mr. Koteswar Rao was in fact Secretary of the institution and Rami Reddy was found to be having no connection at all. In such a situation, we cannot attribute any illegalities or arbitrary claim on the part of Koteswar Rao. The only ground on which the G.O.Ms.No. 171 was set aside by the learned Single Judge was that the G.O.Ms.No. 171 was granted on the premise that this Court issued positive directions in the interlocutory application but in fact that is not the tenor in the G.O.Ms.No. 171. However, the learned Single Judge further observed that the State Government had granted permission to run B.Ed. college to Koteswar Rao and that it was only the National Council to grant such permission. Though the attack was made by the learned counsel for the appellant, we are not inclined to consider this aspect, in asmuch as academic year was already over and the Society has to approach the Council with necessary material. Since the permission was granted from the academic year 2000-2001, subject to the conditions as set out in G.O.Ms.No. 171, it would be open for the petitioner to approach N.C.T.E. for proper recognition. Under these circumstances, we find that the Order of the learned Single Judge setting aside G.O.Ms.No. 171 in W.P.No. 26114 of 2000 is not sustainable and accordingly it is set aside and we leave it open to the Society represented by Koteswar Rao to approach the N.C.T.E. basing on G.O.Ms.No. 171 issued by the Government of Andhra Pradesh for the appropriate recognition under the provisions of the Act and the Regulations framed thereunder.

15. Accordingly, Writ Appeal No.822 is allowed. As the relief claimed in Writ Petition

no more survives, W.A.NO. 889 of 2001 is dismissed as infructuous.

16. W.A.NO. 229 of 2003 filed by G.V. Rami Reddy is dismissed.

17. In view of the Orders passed in the afore Writ Appeals, no Orders are necessary in W.P.No. 22887 of 2003 and accordingly the W.P.No. 22887 of 2003 is closed leaving it open for the respective parties to establish their claim before the appropriate Civil Court.

18. Parties shall bear their respective costs.

_____

G.BIKSHAPATHY, J

_____

P.S. NARAYANA, J

13-4-2005

CHV

L.R. COPY TO BE MARKED:No

..... REGISTRAR

// TRUE COPY //

SECTION OFFICER

ONE FAIR COPY TO THE ON'BLE MR. JUSTICE G. BIKSHAPATHY

(FOR HIS LORDSHIP'S KIND PERUSAL)

ONE FAIR COPY TO THE ON'BLE MR. JUSTICE P.S. NARAYANA

(FOR HIS LORDSHIP'S KIND PERUSAL)

To

1.Secretary to Government, Government of A.P.Education

(SE.TRG.I) Department Secretariat, Hyderabad.

2.Commissioner and Director of School Education, Andhra

Pradesh, Hyderabad.

3.Regional Director National Council for Teacher Education

125, Infantry Road, Opp: Medinova Diagnostic Centre,

Bangalore - 560 001

4.Registrar, Nagarjuna University, Guntur.

5.The Convenor, EdCET 2000 Kakatiya University, Warangal.

6.The Branch Manager, State Bank of India Narasaraopet Branch,

Guntur District.

7.Mr. D.V. Sitarama Murthy, Advocate (OPUC)

8. Mr. Nuty Ram Mohan Rao, Advocate (OPUC)

9. G.P. for Services-I(OPUC)

10. G.P. for School Education(OPUC)

11.Mr. N.Sridhar Reddy, Advocate (OPUC)

12. Mrs. P. Bala Rani, Advocate (OPUC)

13. The Under Secretary, Union of India, Ministry of Law, Justice & Company Affairs, New Delhi.

14. The Secretary, A.P. Advocates Association Library, High Court Buildings, Hyderabad.